

State Supreme Court throws out two-thirds vote to raise taxes

The state Supreme Court on Thursday struck down a requirement for a two-thirds vote in the Legislature to increase taxes.

By [Andrew Garber](#)

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OLYMPIA — The state Supreme Court on Thursday made it easier for state lawmakers to increase taxes.

The court, in a 6-3 [ruling](#), decided a state law requiring a two-thirds vote in the Legislature to increase taxes is unconstitutional.

“Our holding today is not a judgment on the wisdom of requiring a supermajority for the passage of tax legislation,” the court said in its majority opinion.

“Such judgment is left to the legislative branch of our government. Should the people and the legislature still wish to require a supermajority vote for tax legislation, they must do so through constitutional amendment, not through legislation,” the opinion stated.

Attorneys say this means the Legislature can now pass a tax increase with a simple majority vote in both chambers, plus approval by the governor.

It’s not a given that will happen this session, however. Republicans control the state Senate and oppose tax increases.

Senate Majority Leader Rodney Tom argues the court decision does not change anything this session when it comes to the Senate. The GOP-led caucus will oppose tax increases, he said.

“It shows the importance of our caucus here in Olympia,” he said. “The courts can rule, but here in the Senate we’re going to stand behind the will of the people.”

Tom added that the caucus is considering changing Senate rules to require a two-thirds vote to increase taxes.

Lt. Gov Brad Owen, a Democrat who serves as president of the Senate, said he is skeptical about Tom’s proposed rule change.

“We’re going to take a look and see,” said Owen, noting he will talk to the Senate attorney. “My initial reaction is, didn’t the Supreme Court just rule on that?”

Republicans gained control of the Senate on the first day of the session last month with the help of Tom, D-Medina, and Tim Sheldon, D-Potlatch, who crossed party lines to caucus with the GOP.

In addition to Republican opposition to taxes, Democratic Gov. Jay Inslee has said he would not approve new taxes to balance the budget, although he’s indicated he’s open to extending existing taxes and increasing taxes for transportation.

In a statement Thursday, Inslee said, “The state Supreme Court did the right thing today in ruling that a supermajority requirement for ordinary legislation would alter our system of government. The supermajority

requirement gave a legislative minority the power to squelch ideas even when those ideas had majority support. That is inconsistent with our fundamental form of representative democracy.”

Inslee added, “I’m heartened that the state Supreme Court acted today to protect our constitution.”

The court’s ruling is in response to a lawsuit filed by the League of Education Voters and other groups against Initiative 1053, an initiative sponsored by Tim Eyman in 2010 that reinstated the two-thirds requirement.

Voters first authorized the two-thirds requirement in 1993. They reimposed it in 1998, 2007, 2010 and reaffirmed in 2012, at least in part because of lawmakers’ penchant for suspending the requirement to raise more revenue.

Under state law, it takes a two-thirds vote of the Legislature to amend an initiative in the first two years after voters approved it — a near impossibility given the current makeup of the Legislature. After two years, lawmakers can change voter-approved initiatives with a simple-majority vote. They have done so repeatedly.

Eyman has sponsored new initiatives requiring a two-thirds vote in an effort to stay ahead of the Legislature.

King County Superior Court Judge Bruce Heller ruled the two-thirds requirement unconstitutional in May. The case was appealed and the Supreme Court heard arguments in September.

The court has been asked to rule on the constitutionality in the past, and each time avoided a direct decision.

This lawsuit argued the supermajority requirement — though popular — violates the state Constitution, which gives the Legislature the authority to pass laws, in most cases, by simple majority.

Rep. Jamie Pedersen, D-Seattle, one of the plaintiffs, has argued the supermajority threshold effectively blocked the Legislature from closing outdated special-interest tax exemptions that have reduced the money available for schools.

Yet, he noted, creating new tax breaks requires only a simple majority vote. In other words, it was easy for the Legislature to reduce the amount of money collected through taxes — and nearly impossible to increase tax revenue.

It’s not clear what effect this ruling will have on lawmakers now trying to close a roughly \$1 billion budget shortfall, find more money for the state’s transportation system and deal with the court’s last major decision — last year’s order to significantly increase funding for public schools.

Democrats, in general, have been looking toward new taxes to help pay for education and transportation.

Inslee, while opposed to new taxes, has indicated he’d prefer the Legislature approve a transportation tax package in the Legislature, if the court ruled the two-thirds requirement unconstitutional.

Republicans oppose any tax increases to balance the budget or help pay for education funding and have indicated any transportation tax package should go to voters.

Sen. Don Benton, R-Vancouver, said in the statement, “I am shocked and disappointed to see one majority toss out what another majority has approved time after time.”

Benton and Sen. Pam Roach, R-Auburn, are sponsors of joint resolutions to amend the state constitution to require a two-thirds vote of the Legislature to raise taxes, so legislators could not suspend the law.